IN THE HIGH COURT OF JUDICATURE AT BOMBAY.
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 4000 OF 2002.

Shri Maruti Mugutrao Jadhav.... .... Petitioner

V/s

State of Maharashtra & Another... .... Respondents.

Mr.Sanjay Kshirsagar, Adv. for the petitioner.

None for the respondent-State.

CORAM: V.G. PALSHIKAR
AND
SMT.RANJANA DESAI, JJ.
12.8.2004

Oral Judgment : (Per Palshikar, J.)

By this petition the petitioner has challenged the order passed by Maharashtra Administrative Tribunal on 27.9.2001.

2. The petitioner had joined the service as an Overseer on 11.1.1989. He was promoted as a Junior Engineer in the year 1974 and in 1989 he was promoted as a Sectional Engineer. He was due to cross the Efficiency Bar on 1.4.1989. But he is permitted to cross the same by order dated 13.6.1997 from 1.4.1995. The petitioner had, therefore, before approached the Tribunal for declaration that he is entitled to cross the Efficiency Bar on 1.4.1989 and to give him all the consequential benefits.

3. This claim was contested by the respondents contending that the claim of the petitioner for crossing the Efficiency Bar was considered every time by taking into consideration five years ACRs right from the year 1989 but as he was not found suitable, he was not allowed to cross the Efficiency Bar prior to 1.4.1985. It is further contended that there was an inquiry against the present petitioner as regards his conduct and ultimately he was found guilty of misconduct alleged against him and he was awarded punishment of censure. It is, thus contended that the petitioner's application deserves to be rejected.

4. The Tribunal by its impugned order rejected Original Application as filed by the petitioner for very cogent and legal reasons as contained in paragraphs 5 and 6 of its order. The Tribunal has very rightly observed that when the petitioner was due for cross Eff iciency Bar on 1.4.1989 a departmental inquiry may be preliminary inquiry was going on into his alleged misconduct at that time. The Tribunal also noted that the inquiry ultimately ended into minor punishment to the petitioenr in the year 1993 and observed that such penalty imposed in 1993 could not be the only subject matter of considerastion in the manner of granting promotion to cross efficiency bar. The Tribunal then proceeds to peruse the only confidential reports of the petitioner and has on over all reappreciation of that documentary evidence given a finding that on perusal of confidential records it cannot be said that Departmental Authorities have committed any error muchless a patent error in not giving the petitioner over all assessment of the category of good so as to cross efficiency bar as claimed by the petitioner.

5. The Tribunal has also considered the entire material on record and has observed that on each available occasion the case of the petitioner was considered for crossing efficiency bar and on each such occasion piror to 1995 he was found unsuitable. It was therefore considered by the Tribunal that there is no error committed. The findings arrived at by the department cannot be termed as perverse and therefore the Tribunal refused to interfere.

6. This order is assailed on these very grounds before us. In our opinion, when the Administrative Tribunal has considered the entire record, has examined the finding given by the department and has considered the suitability of the petitioner on each occasion that he was due to cross efficiency bar, no error can be foundinsuch an order. It is well reasoned and well considered order with no legal or jurisdictional error and consequently we refuse to interfere with the same. In the result, therefore, the petition fails and is dismissed. However there shall be no order as to costs.